

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

| | | |
|--------------------------------------|---|-----------------|
| TWIN PALMS RESORT, LLC, |) | |
| a Florida Limited Liability Company, |) | |
| by C.B. HARBOUR, III, |) | |
| |) | |
| Petitioners, |) | |
| |) | |
| v. |) | No. 3:09-MC-31 |
| |) | (JORDAN/GUYTON) |
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Defendant. |) | |

REPORT AND RECOMMENDATION

This case has been referred to the undersigned pursuant to 28 U.S.C. § 636(b) and the Order [Doc. 5] of the Honorable Leon Jordan, United States District Judge, for a report and recommendation regarding disposition by the District Court of the Petition to Quash IRS Third-Party Summons [Doc. 1] filed on July 20, 2009. The Petitioners ask the Court to quash the summons for the production of documents issued by the Internal Revenue Service (IRS) to First Tennessee Bank on June 30, 2009, because it allegedly fails to meet three of the four criteria enumerated in Powell v. United States, 379 U.S. 48 (1964), required for enforcement of an IRS administrative summons. The Government filed a response in opposition [Doc. 8] on September 23, 2009.

Because the Petitioners filed a “Notice of Voluntary Dismissal” [Doc. 16] on December 22, 2009, seeking to withdraw their Petition, the Court finds that there is no need for any further

proceedings in this case and **RECOMMENDS**¹ that the Petition to Quash IRS Third-Party Summons [Doc. 1] be **DENIED as moot** and the case **DISMISSED** without prejudice to re-file.

Respectfully submitted,

s/ H. Bruce Guyton
United States Magistrate Judge

¹Any objections to this Report and Recommendation must be served and filed within fourteen (14) days after service of a copy of this recommended disposition on the objecting party. Fed. R. Civ. P. 72(b)(2). Such objections must conform to the requirements of Rule 72(b), Federal Rules of Civil Procedure. Failure to file objections within the time specified waives the right to appeal the District Court's order. Thomas v. Arn, 474 U.S. 140, 106 S. Ct. 466 (1985). The district court need not provide de novo review where objections to this report and recommendation are frivolous, conclusive or general. Mira v. Marshall, 806 F.2d 636 (6th Cir. 1986). Only specific objections are reserved for appellate review. Smith v. Detroit Federation of Teachers, 829 F.2d 1370 (6th Cir. 1987).